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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,143	03/10/2004	Masashi Takehana	250083US6	2052
22850	7590	11/28/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER DANG, HUNG Q	
			ART UNIT 2621	PAPER NUMBER
			NOTIFICATION DATE 11/28/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/796,143	TAKEHANA, MASASHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hung Q. Dang	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 09/12/2008 have been fully considered but they are not persuasive.

On page 5, Applicant argues that, "the outputting of multiple picture materials at an arbitrary timing is done by the picture material switching means, not by the user," and appears to indicate that Fu does not disclose this feature. In response, the Examiner respectfully disagrees. Although Fu et al. teaches that it is a user who is operating a switcher ("Input Monitoring Mux 104" of Fig. 2A) to switch the signals, obviously the switcher shown in Fig. 2A is the picture material switching means having the described switcher function because it is the switcher that is able to perform the recited features directly. The user only serves as the operator of the switcher to control its functionalities. In other words, the user can be considered as the issuer of commands to control the operation. Therefore, since the picture material switching means disclosed by Fu et al. has a switcher function of switching and outputting multiple picture materials at an arbitrary timing (because a user can manipulate the scene through selecting one of the inputs, he or she can choose to select a specific one among the inputs to be outputted in an arbitrary manner that fits his or her intention) recited, Fu et al. do clearly and fully disclose the limitation of "the picture material switching means having a switcher function of switching and outputting multiple picture materials at an arbitrary timing."

On page 6, Applicant argues that, Fu does not disclose the limitation of “the edit list creation means creates the edit list simultaneously with the switching operation for switching the multiple picture materials by using the switcher function.” In response, the Examiner respectfully disagrees. In column 7, lines 8-11 and column 19, lines 18-21, Fu discloses the manipulation by the user to create a list of segments comprising beginning and end frame numbers. The manipulation is described during monitoring at the content monitoring module while the switcher (“Input Monitoring Multiplexor 104” in Fig. 2A and column 5, lines 40-50) is switching the input streams and outputting the combined video stream. Therefore, the actions of creating the list of segments and the operation of switching simultaneously occur. At least, this list of segments corresponds an editing list because it indicates scene detections by which editing is performed, e.g. at least by extracting representative frames described in column 8, lines 46-65. For ongoing reasons, Fu clearly discloses the limitation of “the edit list creation means creates the edit list simultaneously with the switching operation for switching the multiple picture materials by using the switcher function,” as recited in claim 2.

Applicant’s arguments regarding the newly amended features and claims 1 and 5 are moot in view of new ground(s) of rejections set forth in details below. Here, the Examiner would like to give additional comments regarding a further teaching of Fu believed to disclose the feature of “creating an edit list based on an operation history of switching operations.” Specifically, Fu also discloses “creating an edit list based on an operation history of switching operations” because the “edit list” that records the scene change detections is performed based on a single combined video stream that results

from the switching of various video input streams. The single combined video stream reflects an operation history of switching operations because each pattern of switching operations (the sequence of switching, the timing of switching, and the selected source for switching etc.) corresponds to a unique combined output stream in a one-to-one relationship. In other words, the combined video stream has in itself an operation history of switching operations. Therefore, since the edit list is created based on a combined video stream, which carries the operation history of switching operations, the edit list is actually created based on the operation history of switching operations. Further, in column 7, lines 4-5, Fu discloses generating edited picture data immediately after the video input since after the video data is input, switched into a combined stream, the combined stream is monitored for scene change and the edited picture data is generated as disclosed in column 7, lines 4-5.

Finally, it is also noted that the "live broadcast" recited in claims 1 and 5 is not necessarily physically associated with the apparatus by any means because the claims do not recite the live broadcast as one of the inputs to the apparatus. So, the relationship of the apparatus' operation and the live broadcast could be nothing else but the timing of two irrelevant events, i.e. an arbitrary and irrelevant live broadcast is on the air at time  $t$  while the generation of the edited picture data in the recited apparatus occurs at time  $t$  plus delta (a small amount of time) still disclosing the limitation. However, to expedite the prosecution, the Examiner still considers combining a secondary reference to disclose the live broadcast as an input of the apparatus.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu et al. (US Patent 6,882,793) and Strubbe et al. (US Patent 5,047,867).**

Regarding claim 1, Fu et al. disclose a picture material editing apparatus comprising: means for inputting multiple picture materials from multiple sources ("Input Module 102" in Fig. 2A); picture material switching means having a switcher function of switching and outputting multiple picture materials at an arbitrary timing (column 5, lines 18-33, 40-61; also see "Response to Arguments" above); and edit list creation means for creating an edit list based on an operation history of switching operations for switching the multiple picture materials with the switcher function for generation of edited picture data immediately after the video is input (column 7, lines 8-11; column 19, lines 18-21; column 7, lines 4-5; also see "Response to Arguments" above).

However, Fu et al. do not disclose the input stream is from a live broadcast.

Strubbe et al. disclose the input stream is from a live broadcast (Fig. 2; column 3, lines 19-34).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate taking a live broadcast as input stream disclosed by Strubbe et al. into the picture material editing apparatus disclosed by Fu et al. to extend

the sources of input signals for the apparatus in order to receive, edit, and record favorite broadcast programs

Regarding claim 2, Fu et al. also disclose the edit list creation means creates the edit list simultaneously with the switching operation for switching the multiple picture materials by using the switcher function (column 7, lines 8-11; column 19, lines 18-21).

Regarding claim 3, Fu et al. also disclose the edit list creation means creates the edit list based on the kind of special effect specified when the picture materials are switched and various setting information is provided for the kind of special effect specified in addition to the switching operation (column 7, lines 8-11; column 19, lines 18-22).

Regarding claim 4, Fu et al. also disclose when the picture material switching means executes edit processing of connecting highlight scenes of the multiple picture materials as the switching operation, the edit list creation means creates a digest-version edit list corresponding to the edit processing (column 17, lines 20-33; column 19, lines 9-22).

Claim 5 is rejected for the same reason as discussed in claim 1 above.

Claim 6 is rejected for the same reason as discussed in claim 2 above.

Claim 7 is rejected for the same reason as discussed in claim 3 above.

Claim 8 is rejected for the same reason as discussed in claim 4 above.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung Q. Dang whose telephone number is (571)270-1116. The examiner can normally be reached on IFT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hung Q Dang/  
Examiner, Art Unit 2621

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621